

General Civil and Domestic Relations Case Filing Information Form

☐ Superior or ☐ State Court of _____ County

For Clerk Use Only

 Date Filed _____
 MM-DD-YYYY

Case Number _____

Plaintiff(s)

Last	First	Middle I.	Suffix	Prefix

Defendant(s)

Last	First	Middle I.	Suffix	Prefix

 Plaintiff's Attorney _____ State Bar Number _____ Self-Represented ☐

Check one case type and one sub-type in the same box (if a sub-type applies):

General Civil Cases

- ☐ Automobile Tort
- ☐ Civil Appeal
- ☐ Contempt/Modification/Other Post-Judgment
- ☐ Contract
- ☐ Garnishment
- ☐ General Tort
- ☐ Habeas Corpus
- ☐ Injunction/Mandamus/Other Writ
- ☐ Landlord/Tenant
- ☐ Medical Malpractice Tort
- ☐ Product Liability Tort
- ☐ Real Property
- ☐ Restraining Petition
- ☐ Other General Civil

Domestic Relations Cases

- ☐ Adoption
- ☐ Contempt
 - ☐ Non-payment of child support, medical support, or alimony
- ☐ Dissolution/Divorce/Separate Maintenance/Alimony
- ☐ Family Violence Petition
- ☐ Modification
 - ☐ Custody/Parenting Time/Visitation
- ☐ Paternity/Legitimation
- ☐ Support – IV-D
- ☐ Support – Private (non-IV-D)
- ☐ Other Domestic Relations

- ☐ Check if the action is related to another action pending or previously pending in this court involving some or all of the same: parties, subject matter, or factual issues. If so, provide a case number for each.

_____ Case Number

_____ Case Number

- ☐ I hereby certify that the documents in this filing, including attachments and exhibits, satisfy the requirements for redaction of personal or confidential information in OCGA § 9-11-7.1.

- ☐ Is a foreign language or sign-language interpreter needed in this case? If so, provide the language(s) required.

_____ Language(s) Required

- ☐ Do you or your client need any disability accommodations? If so, please describe the accommodation request.

IN THE STATE COURT OF FULTON COUNTY

STATE OF GEORGIA

APRIL LOWE,

Plaintiff,

v.

WAL-MART STORES EAST, LP and
WALMART, INC.,

Defendants.

CIVIL ACTION

FILE NO.: _____

COMPLAINT

COMES NOW APRIL LOWE, Plaintiff, and makes and files this complaint against Defendants Wal-Mart Stores East, LP and Walmart Inc., as follows:

PREAMBLE

This matter is being filed in accord with the judicial emergency orders issued by the Chief Justice of the Supreme Court of Georgia which extended all deadlines, including statute of limitations, for all civil matters. Pursuant to the final Judicial Emergency Order, the tolling ceased for most civil matters on July 14, 2020. As of that date, a party would have the same amount of time to file their documents that they would have had remaining at the time of the original order of March 14, 2020. This matter is timely filed under the judicial emergency tolling provisions.

PARTIES AND JURISDICTION

1.

Plaintiff APRIL LOWE (hereinafter "Plaintiff") resides in the State of Georgia and subjects herself to the jurisdiction of this court by the filing of this lawsuit.

2.

WAL-MART STORES EAST, LP (hereinafter “East”) is a Foreign Limited Partnership existing under the laws of Delaware with a principal place of business in Bentonville, Arkansas. East is authorized to conduct and actually conducts business in Georgia and Fulton County. East may be served through its Registered Agent, to wit, The Corporation Company, 106 Colony Park Drive, Suite 800-B, Cumming, Georgia 30040-2794. East is subject to the jurisdiction of this Court.

3.

WALMART, INC. (hereinafter “Inc.”) is a Foreign Profit Corporation existing under the laws of Delaware with a principal place of business in Bentonville, Arkansas. Inc. is authorized to conduct and actually conducts business in Georgia and Fulton County. Inc. may be served through its Registered Agent, to wit, The Corporation Company, 106 Colony Park Drive, Suite 800-B, Cumming, Georgia 30040-2794. East is subject to the jurisdiction of this Court.

4.

Jurisdiction and venue are proper in this court.

FACTUAL BACKGROUND

5.

On December 20, 2019, Plaintiff was an invitee at the Walmart Supercenter located at 835 Martin Luther King, Jr. Drive, NW, Atlanta, Fulton County, Georgia 30314 (hereinafter “the premises” or “the subject premises”).

6.

Plaintiff slipped and fell on a thick clear liquid present on the floor of the subject premises. The thick clear liquid present on the floor created a hazardous condition.

7.

There were no cones or other warnings in the area of the hazardous condition at the time of the fall.

8.

Defendants had exclusive ownership, possession and control over the subject premises at all times relevant to this litigation.

9.

As a result of Plaintiff's fall, he/she suffered serious and painful injuries.

COUNT I
NEGLIGENCE

10.

Plaintiff realleges and incorporates herein the allegations contained in Paragraphs 1 through 9 above as if fully restated.

11.

Defendants owed a duty of care to Plaintiff to act reasonably in the inspection, operation and maintenance of the subject premises.

12.

Defendants breached its duty to Plaintiff by:

- a) Failing to properly inspect the premises for hazardous conditions;
- b) Allowing a hazardous condition to exist and remain on the premises;
- c) Failing to maintain a safe environment for its invitees;
- d) Failing to warn Plaintiff of the hazardous condition; and
- e) For other negligent acts and omissions which shall be discovered during the litigation and presented at trial.

13.

At all times relevant to the subject Incident, Plaintiff was without fault or negligence.

14.

Defendants' negligence was the proximate cause of plaintiff's injuries.

COUNT II
PREMISES LIABILITY

15.

Plaintiff realleges and incorporates herein the allegations contained in Paragraphs 1 through 14 above as if fully restated.

16.

Plaintiff was an invitee on the Premises at the time of the subject incident.

17.

Defendants owed a nondelegable duty of reasonable care in keeping the subject premises safe for invitees such as Plaintiff.

18.

Defendants, by and through their employees who were working within the course and scope of their employment at the time of the subject incident, allowed a hazardous condition to exist on the premises.

19.

At all times relevant to the subject incident, Defendants had superior knowledge of the hazardous condition which existed on the subject premises.

20.

Plaintiff did not know of the danger posed by the hazardous condition at the time of the subject incident.

21.

Defendants had actual or constructive knowledge of the existence of the hazardous condition and should have warned invitees to the hazardous condition.

22.

Defendants were negligent in failing to properly inspect or maintain the subject premises, in failing to remedy the presence of the hazardous condition, in failing to take adequate measures to protect invitees, and in failing to keep the subject premises safe for invitees.

COUNT III
VICARIOUS LIABILITY

23.

Plaintiff realleges and incorporates herein the allegations contained in Paragraphs 1 through 22 above as if fully restated.

24.

At the time of the subject Incident, Defendants' employees and agents had a duty to inspect and maintain the subject premises such that it should be clear of hazardous conditions. Defendants' employees and agents breached their duty.

25.

Defendants are responsible for the conduct of these individuals under the doctrine of *respondeat superior*, agency or apparent agency.

COUNT IV
NEGLIGENT TRAINING AND SUPERVISION

26.

Plaintiff realleges and incorporates herein the allegations contained in Paragraphs 1 through 25 above as if fully restated.

27.

Defendants were negligent in failing to adopt appropriate policies and procedures to make sure that appropriate inspections, cleaning and maintenance were performed on the premises and in failing to train its employees concerning safety procedures for inspecting, cleaning and maintaining the premises.

28.

Defendants were negligent in training and supervising staff members.

29.

As a result of Defendants' negligence in training and supervising its employees, Plaintiff was injured on the premises.

COUNT V
DAMAGES

30.

Plaintiff realleges and incorporates herein the allegations contained in Paragraphs 1 through 29 above as if fully restated.

31.

As a direct and proximate cause of the Defendants' negligence, Plaintiff has sustained severe ongoing physical injuries.

32.

As a direct and proximate cause of the Defendants' negligence, Plaintiff has incurred medical expenses which today total \$172,218.80, but which will be fully and finally proven at trial.

33.

As a direct and proximate result of the Defendants' negligence, Plaintiff may continue to incur future medical expenses for an indeterminate time into the future.

34.

As a direct and proximate result of the Defendants' negligence, Plaintiff has incurred, and continues to incur, pain and suffering, mental anguish, and emotional distress.

WHEREFORE, Plaintiff prays that she have a trial on all issues and judgment against Defendants as follows:

- (a) That Plaintiff recover the full value of past and future medical expenses in an amount to be proven at trial, but in no event less than \$172,218.80;
- (b) That Plaintiff recover for mental and physical pain and suffering and emotional distress in an amount to be determined by the enlightened conscience of the jury;
- (c) That Plaintiff recover such other and further relief as is just and proper;
- (d) That all issues be tried before a jury.

This 20th day of April, 2022.

LOWE LAW FIRM

/s/ Michael G. Webb

Michael G. Webb

Georgia Bar No. 744630

3644 Chamblee Tucker Road
Suite F
Atlanta, Georgia 30341
Telephone: (404) 445-2822
webb@lowelawatl.com

GEORGIA, FULTON COUNTY

DO NOT WRITE IN THIS SPACE

STATE COURT OF FULTON COUNTY
 Civil Division

CIVIL ACTION FILE #: _____

 Plaintiff's Name, Address, City, State, Zip Code

vs.

 Defendant's Name, Address, City, State, Zip Code

TYPE OF SUIT	AMOUNT OF SUIT
<input type="checkbox"/> ACCOUNT	PRINCIPAL \$ _____
<input type="checkbox"/> CONTRACT	
<input type="checkbox"/> NOTE	INTEREST \$ _____
<input type="checkbox"/> TORT	
<input type="checkbox"/> PERSONAL INJURY	ATTY. FEES \$ _____
<input type="checkbox"/> FOREIGN JUDGMENT	
<input type="checkbox"/> TROVER	COURT COST \$ _____
<input type="checkbox"/> SPECIAL LIEN	

<input type="checkbox"/> NEW FILING	
<input type="checkbox"/> RE-FILING: PREVIOUS CASE NO.	_____

SUMMONS

TO THE ABOVE NAMED-DEFENDANT:

You are hereby required to file with the Clerk of said court and to serve a copy on the Plaintiff's Attorney, or on Plaintiff if no Attorney, to-wit:

Name: _____

Address: _____

City, State, Zip Code: _____ Phone No.: _____

An answer to this complaint, which is herewith served upon you, must be filed within thirty (30) days after service, not counting the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint, plus cost of this action. **DEFENSES MAY BE MADE & JURY TRIAL DEMANDED**, via electronic filing or, if desired, at the e-filing public access terminal in the Self-Help Center at 185 Central Ave., S.W., Ground Floor, Room TG300, Atlanta, GA 30303.

Christopher G. Scott, Chief Clerk (electronic signature)

SERVICE INFORMATION:

Served, this _____ day of _____, 20_____.

DEPUTY MARSHAL, STATE COURT OF FULTON COUNTY

WRITE VERDICT HERE:

We, the jury, find for _____

This _____ day of _____, 20_____. _____ Foreperson

(STAPLE TO FRONT OF COMPLAINT)

GEORGIA, FULTON COUNTY

DO NOT WRITE IN THIS SPACE

STATE COURT OF FULTON COUNTY
 Civil Division

CIVIL ACTION FILE #: _____

 Plaintiff's Name, Address, City, State, Zip Code

vs.

 Defendant's Name, Address, City, State, Zip Code

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<input type="checkbox"/> FOREIGN JUDGMENT	
<input type="checkbox"/> TROVER	COURT COST \$ _____
<input type="checkbox"/> SPECIAL LIEN	

<input type="checkbox"/> NEW FILING	
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Name: _____

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Christopher G. Scott, Chief Clerk (electronic signature)

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Served, this _____ day of _____, 20_____.

DEPUTY MARSHAL, STATE COURT OF FULTON COUNTY

WRITE VERDICT HERE:

We, the jury, find for _____

This _____ day of _____, 20_____. _____ Foreperson

(STAPLE TO FRONT OF COMPLAINT)

IN THE STATE COURT OF FULTON COUNTY
STATE OF GEORGIA

APRIL LOWE,

Plaintiff,

CIVIL ACTION
FILE NO. 22EV002379

vs.

WAL-MART STORES EAST, LP and
WALMART, INC.,

Defendants.

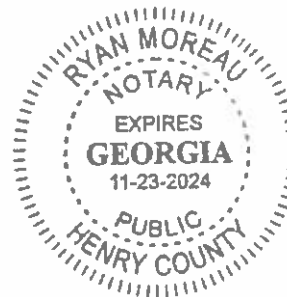
AFFIDAVIT OF JEFF DOLBIER

On Thursday April 21, 2022 at 12:15 pm I served true and correct copies of the SUMMONS and COMPLAINT upon Defendant Walmart, Inc.'s Registered Agent, The Corporation Company, located at 106 Colony Park Drive, Suite 800-B, Cumming, GA 30040. Mr. Dayvon Jackson, a representative of The Corporation Company, accepted service.

This 23 day of APRIL 20 22


Jeff Dolbier
President, Flash Delivery Inc.

Sworn and Subscribed before
me this 23rd day of April 20 22
Ryan Moreau
My Commission Expires: 11-23-2024



IN THE STATE COURT OF FULTON COUNTY

STATE OF GEORGIA

APRIL LOWE,

Plaintiff,

CIVIL ACTION
FILE NO. 22EV002379

vs.

WAL-MART STORES EAST, LP and
WALMART, INC.,

Defendants.

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Sworn and Subscribed before
me this 23rd day of April 20 22
Ryan Moreau
My Commission Expires: 11-23-2024



IN THE STATE COURT OF FULTON COUNTY
STATE OF GEORGIA

APRIL LOWE,)	
)	
Plaintiff,)	
)	Civil Action File
vs.)	No. 22EV002379
)	
WAL-MART STORES EAST, LP,)	
AND WALMART, INC)	
)	
Defendants.)	

**ANSWER AND JURY DEMAND OF DEFENDANTS WAL-MART STORES
EAST, LP AND WALMART, INC.**

Defendants Wal-Mart Stores East, LP and Walmart Stores, Inc., by and
through counsel, answers plaintiff's Complaint as follows:

FIRST DEFENSE

Plaintiff's claims are barred by the doctrine of contributory negligence to the
extent that she could have avoided any alleged hazard through the exercise of
ordinary care.

SECOND DEFENSE

Plaintiff assumed the risk of any hazard that was presented and is thereby
barred from recovering against Defendants.

THIRD DEFENSE

Responding to the specific allegations of the numbered paragraphs of
plaintiff's Complaint, Defendants answer:

1.

Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 1.

2.

Defendants denies the allegations of paragraph 2 as pled.

3.

Defendants admit the allegations of paragraph 3.

4.

Defendants deny the allegations of paragraph 4 as pled.

5.

Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 5.

6.

Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 6.

7.

Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 7.

8.

Defendants deny the allegations of paragraph 8 as pled.

9.

Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 9.

10.

Defendants incorporate and re-allege their responses to paragraphs 1-9 inclusive.

11.

Defendants deny the allegations of paragraph 11 as to Walmart, Inc. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 11 as it relates to Wal-Mart Stores East, LP.

12.

Defendants deny the allegations of paragraph 12.

13.

Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 13.

14.

Defendants deny the allegations of paragraph 14.

15.

Defendants incorporate and re-allege their responses to paragraphs 1-14

inclusive.

16.

Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 16.

17.

Defendants deny paragraph 17 as to Walmart, Inc. Defendants admit that Wal-Mart Stores East, LP owed a nondelegable duty of reasonable care to keep the subject premises safe for invitees. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 17 regarding plaintiff's invitee status.

18.

Defendants deny the allegations of paragraph 18.

19.

Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 19.

20.

Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 20.

21.

Defendants deny the allegations of paragraph 21.

22.

Defendants deny the allegations of paragraph 22.

23.

Defendants incorporate and re-allege their responses to paragraphs 1-22 inclusive.

24.

Defendants deny the allegations of paragraph 24.

25.

Defendants deny the allegations of paragraph 25.

26.

Defendants incorporate and re-allege their responses to paragraphs 1-25 inclusive.

27.

Defendants deny the allegations of paragraph 27.

28.

Defendants deny the allegations of paragraph 28.

29.

Defendants deny the allegations of paragraph 29.

30.

Defendants incorporate and re-allege their responses to paragraphs 1-29

inclusive.

31.

Defendants deny the allegations of paragraph 31.

32.

Defendants deny the allegations of paragraph 32.

33.

Defendants deny the allegations of paragraph 33.

34.

Defendants deny the allegations of paragraph 34.

35.

Any allegation, language or paragraph of plaintiff's Complaint not heretofore responded to is specifically denied by Defendants.

WHEREFORE having answered, Defendants prays that they be discharged, with their costs, that they receive a trial by a jury of twelve (12) persons, and that they receive all further relief available under the law.

This 20th day of May, 2022.

WALDON ADELMAN CASTILLA
HIESTAND & PROUT

/s/ Casey J. Brown
Jonathan M. Adelman
Georgia Bar No. 005128
Casey J. Brown
Georgia Bar No. 757384
Attorneys for Defendants

900 Circle 75 Parkway
Suite 1040
Atlanta, Georgia 30339
(770) 953-1710
jadelman@wachp.com
cbrown@wachp.com

CERTIFICATE OF SERVICE

I hereby certify that I electronically filed this PLEADING with the Clerk of the Court using an O.C.G.A. § 15-6-11 electronic filing service provider which will automatically send e-mail notification of such filing to the following attorney(s) of record:

Michael G. Webb, Esq.
Georgia Bar No. 744630
Lowe Law Firm
3644 Chamblee Tucker Road
Suite F
Atlanta, GA 30341
webb@lowelawatl.com

This 20th day of May, 2022.

WALDON ADELMAN CASTILLA
HIESTAND & PROUT

/s/ Casey J. Brown
Jonathan M. Adelman
Georgia Bar No. 005128
Casey J. Brown
Georgia Bar No. 757384
Attorneys for Defendants

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